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10/824,028

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Stephen Byng

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EXAMINER

YOO, JASSON H

ART UNIT

PAPER NUMBER

3714

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,028	<b>Applicant(s)</b> BYNG, STEPHEN	
	<b>Examiner</b> JASSON H. YOO	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/13/04</u> .                                                 | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: Applicant discloses “the predetermined elements” may include the total number of player either increasing or decreasing, the total amount of stake risked or when any single player's credits are depleted, i.e. reduced to zero. See paragraph 29 in Applicant's specification. However, the word “predetermined” to mean to settle or decided in advance. Thus “predetermined elements” is interpreted as components of the cooperative gaming environment that are settled or decided in advance. If the total number of players, the total amount of stake risked or the player's credits can be changed throughout the game play, then they are not predetermined elements.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

Claims 1-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-36, where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “predetermined elements” in

claims 1-36 is used by the claim to describe components of the cooperative gaming environment such as that changes (i.e. the total number of players, the total amount of stake risked or the player's credits can be changed throughout the game play), while the accepted meaning is "components of the cooperative gaming environment that are settled or decided in advance." The term is indefinite because the specification does not clearly redefine the term. Applicant also discloses the predetermined elements are used to determined milestones. However Applicant fails to specifically describe what the milestones are.

Furthermore, claims 1-36 incorporate the limitation of "using the milestone so that no one player in the cooperative gaming environment benefits at the expense of the other players participating in the cooperative gaming environment." However, the specification discloses the cooperative game play allows a player to interact with player(s) in order to share their experiences, risks and successes (paragraph 6). The sharing of experiences, risks and successes allows a player to benefit from other players. The claims will be examined based on the Examiner's best understanding of the claims.

Claims 1-13, 37-45 incorporate the limitation of "an identifier associated with one of each player and each gaming machine, the identifier providing an indication to the control unit as to whether or not the player wishes to participate in a cooperative gaming environment." It is assumed that the identifier is an identification device such as identification card (paragraph 64) that is provided to each player. It is not clear how an identifier or the identification card provides an indication to the control unit as to whether or not the player wishes to participate in a cooperative gaming environment. Applicant's

specification (paragraph 64) discloses the control unit detects a card in the card reader associated with each gaming machine. The identification card does not provide information to the control unit. The gaming machine provides information associated to the identification card to the control unit.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 8-10, 14-21, 25-27, 37-41, 44-53, 57-58 are rejected under 35 U.S.C. 102(e) as being anticipated by Walker et al (US 2003/0064807).

Walker discloses a system and a method for providing linked play via gaming and other devices. The linked play allows players to play in a group (paragraph 30). The individual group member's outcome or the combined group outcome is used to determine a reward (paragraph 30). The reward is provided to the group or shared only among particular group members (paragraph 30). Walker's system and method for providing linked play also allows different group format and group objective (paragraphs 32, 57-58). The group format may refer to a set of rules or guidelines a group and its members such as the required wager, the total amount of money group members are required to wager, the total amount of money group members are required to contribute to a common pool, the length of a group session, the number of people who may join

the group, what happens if a group member leaves the group, and/or the way in which any prize will be distributed among the group members (paragraph 57). The group objective may refer to a prize and a set of criteria a group may be required to meet in order to win the prize such as the group's aggregate net winnings exceeding a certain threshold or having each person in the group win a certain amount (paragraph 58). The group format and the group session are considered as rules or milestones that are set based on many variables of the cooperative gaming environment.

Walker specifically discloses the following:

1, 14. A gaming system which includes:

a control unit (102 in Fig. 1a, 1b); a plurality of gaming machines linked to the control unit (104, 106, 108, 112, 114 in Figs. 1a and 1b);

an identifier (player tracking card, paragraph 99) associated with one of each player and each gaming machine (identifier is accessed by a gaming device, paragraph 53), the identifier providing an indication to the control unit as to whether or not the player wishes to participate in a cooperative gaming environment (paragraph 53); and

the control unit monitoring operation of the gaming machines in the cooperative gaming environment (paragraphs 79-81), and each time any one of a number of predetermined elements of the cooperative gaming environment changes, generating a milestone and using the milestone so that no one player in the cooperative gaming environment benefits at the expense of the other players participating in the cooperative gaming environment [As discussed above Walker's system and method for providing linked play also allows different group format and group objective (paragraphs 32, 57-

58). The group format and the group session are considered as rules or milestones that are set based on many variables of the cooperative gaming environment. As the variables changes (or predetermined elements changes) (for example a new member joins the group or decides to participate in a group, paragraph 57), the new member must reach the milestone (for example, the total amount of money group members are required to wager) in order to receive a prize as a group member (see paragraph 57).].

2, 38. The system of claim 1 in which the control unit includes a registration module for registering players that accept to participate in the cooperative gaming environment (casino server, or third party server, see abstract, paragraphs 79, 86, 101)

3, 19, 39, 51. The control unit includes a rules-establishing module for establishing rules of the cooperative gaming environment, the rules determining general operating conditions of the cooperative gaming environment (paragraphs 57-58, 79).

4, 20, 40, 52. The rules-establishing module relies at least in part on player input in establishing the rules (paragraphs 144-145).

5, 21, 41, 53. The rules include whether or not new players may join the cooperative gaming environment (number of people in a group, paragraph 57, and paragraph 132), what happens when someone wishes to leave the cooperative gaming environment (paragraph 57), whether the players all play the one game or if resources are to be pooled (paragraph 57), whether the players are to play the same strategy or to

choose their own strategy (type of group format or group objective, paragraph 57-58), whether players are able to determine their own investment or invest the same amount (total amount of money group members are required to wager, paragraph 67), whether wins are transferred to a credit pool of each player or are stored (total amount of money group members are required to contribute to a common pool, paragraph 57 or total winnings, paragraph 57) and distributed at the end of a cooperative gaming session or any other special criteria (which way in which any prize will be distributed among the group members, paragraph 57) .

8, 25, 44, 57. The control unit includes an allocating module for allocating a mixture of higher volatility and lower volatility games to the players participating in the cooperative gaming environment so that there is an even distribution of gaming machine volatility in the cooperative gaming environment (The term volatility is interpreted as the rate games are played. Walker discloses paring players having different volatility to participate in the cooperative gaming environment, paragraph 294).

9, 26. The control unit provides the players participating in the cooperative gaming environment with the opportunity to adopt different strategies so that risk is distributed between the players participating in the cooperative gaming environment (different gaming machines that incorporates different strategies can be played, paragraph 57).



10, 27, 45, 58. The control unit allows existing players to exit and new players to enter the cooperative gaming environment in certain circumstances (paragraphs 57, 256).

15, 47. The method of claim 14 which includes informing the players playing the gaming machines of the opportunity to participate in the cooperative gaming environment (400 in Fig. 4).

16, 48. The method of claim 14 which includes initiating the cooperative gaming environment by one of the system and any one of the players, the players electing, at their option, whether or not to compete in the cooperative gaming environment (402 and 404 in Fig. 4).

17, 49. The method of claim 16 which includes registering players that do accept to participate in the cooperative gaming environment (see abstract, paragraphs 79, 86, 101).

18, 50. The method of claim 17 which includes identifying locations that will form part of the cooperative gaming environment (paragraph 74), allowing the players to nominate how much they wish to invest and determining whether or not there are sufficient players to constitute a cooperative gaming environment (paragraph 57 and the related description of group format).

37, 46. A method of implementing cooperative gaming and a gaming system which includes: a control unit; a plurality of gaming machines linked to the control unit; an identifier associated with one of each player and each gaming machine, the identifier providing an indication to the control unit as to whether or not the player wishes to participate in a cooperative gaming environment; and the control unit providing the players participating in the cooperative gaming environment with the opportunity to adopt different strategies so that risk is distributed between the players participating in the cooperative gaming environment (See rejection for claim 1. Furthermore, since each member of the group are participating in the cooperative gaming environment, the strategy each group member uses are different. For example, group members may wager differently or play at a different speed).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7, 11-13, 22-24, 28-36, 42-43, 54-56, 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (US 2003/0064807).

Walker discloses a system and a method for providing linked play via gaming and other devices as discussed above. Walker further discloses the group format and the group the group objective are decided by the players. Walker discloses few examples of the group format and group objectives in paragraphs 57 and 58. However,

Walker fails to teach the specific group format, group objectives and how they are implemented as claimed. Nevertheless such limitations would have been obvious over Walker as discussed below.

6, 22, 42, 54. As discussed above, Walker discloses the player can establish the rules. Walker also discloses the game device comprises a display device (paragraph 48). It is implied that the rules are displayed to the players once they have been established (i.e. as shown in Fig. 4) or would have been obvious to one of ordinary skill in the art. Displaying the rules after the rules have been established will provide players a guideline on what is required to win after the rules have been established. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Walker's system and method, and display the rules after the rules have been established in order to provide players a guideline on what is required to win after the rules have been established.

7, 24, 43, 56. Walker discloses a system and a method of providing linked play via gaming and other devices. Walker further discloses rules are selected for the game play. However, Walker fails to teach the rules relate to how disputes are to be resolved. Nevertheless rules relating to how disputes are to be resolved are implied or would have been obvious to one of ordinary skill in the art. Game rules are established in order to set guidelines on how the game is played and what is required to win the game. If there are disputes during the game play, players can refer to the rules or guidelines on how the game is supposed to be played. Therefore it would have been

obvious to one of ordinary skilled in the art at the time the invention was made to modify Walker' system and method, and use the rules to resolve disputes according the guidelines on how the game is played.

11, 28. Walker discloses a system and a method of providing linked play via gaming and other devices. Walker discloses milestones are generated when establishing the group format and group session. Walker further discloses the group objective progress is also measured (paragraphs 93, 57, 142-143, 236). Measuring the progress of the group's objective allows the determination of the prize for the group and individual players. However, Walker fails to teach when a milestone needs to be generated, allowing all games in progress to be completed and then record the status of credit meters of all participating gaming machines and the current amount won at each of the participating gaming machines, the generating module of the control unit determining a final amount distributed to each player for each of the phases between milestones. Nevertheless this is implied when measuring the group's objective progress or would have been obvious in order to measure group's objective progress. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Walker' system and method, and incorporate the method of recording and determining the phases between players for each players in order to measure the group's objective progress.

12, 29. The predetermined elements of the cooperative gaming environment which are subject to change and which lead to the generation of milestones include the

total number of players either increasing or decreasing, the total amount of stake risked or when any single player's credits are depleted (see rejection for claim 1).

13, 30. When a new player joins an existing cooperative gaming environment, the generating module generates a milestone and records a current accumulated contribution by the players participating prior to the new player joining and a current amount won by those players (See rejection for claim 1. Furthermore game play information is recorded from the beginning of the game play session, paragraphs 93, 57, 142-143, 236).

23, 55. Offering the players a further opportunity to elect whether or not to continue in the cooperative gaming environment (General rules are displayed in Fig. 4. The player has an opportunity to elect whether or not to continue in the cooperative gaming environment by accepting 402 or declining 404, see Fig. 4.).

31. Walker discloses the method of generating a game format in order to determine how the winnings are divided. The winnings can be divided proportionally based on individual wagers or individual winnings (paragraphs 57-59, 93, 142, 144, 187, 194, 196). However, Walker fails to specifically teach the method of weighing credit contributed by the new player against a current credit total for future proportion of final wins, at the end of a cooperating gaming session. Nevertheless, weighing credit contributed by the new player against a current credit total for future proportion of final wins requires the winnings can be divided proportionally based on individual wagers or

individual winnings. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Walker's method and incorporate the method of weighing credit contributed by the new player against a current credit total for future proportion of final wins, in order to provide winnings based on the game format.

32, 59. Walker discloses the method of implementing cooperative gaming which includes the method of allowing the player to leave the cooperative gaming prior to the end of the session (paragraphs 57, 253-259). However Walker fails to teach specifically teach that the player is allowed to leave the cooperative gaming prior to the end of the session only when the cooperative gaming environment is idle. Nevertheless, allowing the player to leave only when the gaming environment is idle would have been obvious to one of ordinary skilled in the art. This ensures that the player does not leave the gaming environment when the player is not currently in a middle of a game. This prevents confusion to the game play for the players. Therefore it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify Walker's method and incorporate the method of allowing the player to leave only when the gaming environment is idle in order to ensure that the player does not leave the gaming environment when the player is not currently in a middle of a game.

33, 60. When the player wishes to leave the cooperative gaming environment resolving and displaying all existing games for all the other players and then allocating a current prize pool accordingly (Walker discloses displaying group member video images

of each other's gaming device or computer screens, paragraph 233. Furthermore, Walker discloses allocating the prize pool accordingly, paragraphs 57, 253-259.).

34, 61. When any one player leaves, offering all the remaining players the opportunity to leave (entire group or a significant portion of a group may quit upon the agreement of one or more group members, paragraph 259).

35, 62. When the player leaves, leaving unallocated residual credits in a remaining prize pool (Prizes in pool are distributed accordingly, paragraphs 57, 142, 144, 186-187, 195-196, 253-259. This implies that the unallocated residual credits are remained in the pool for the remaining players.).

36, 63. When the player leaves, resolving payment of unallocated residual credits by a preselected strategy (The rules on what happens if group member leaves the group and/or the way in which any prize will be distributed among the group members is preselected when selecting the group format, paragraph 57).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASSON H. YOO whose telephone number is (571)272-5563. The examiner can normally be reached on 9:00am - 5:00am.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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